

NOTE: The slides from this webinar are intended as a general guide to identifying some of the legal and regulatory questions that may face your stations during the license renewal process. This information should not be considered legal advice, as we do not have the specific facts of your situation which could affect how rules and policies are interpreted. For legal advice, you should always talk to your own counsel.

Getting Ready for License Renewal

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Webinar for New York State Broadcasters Association

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Remember License Renewal?

- Your last radio license renewal was granted back in 2014
- FCC started new 3-year radio renewal cycle June 2019 – first batch of renewal grants came in September 2019 – as well as the first few fines for violations
- Every other month, renewals due for all radio stations in a particular state or states, with TV one year behind
- New York state is almost at the end of the renewal cycle – so lots of experience in what the FCC is doing this time around

Filing Deadlines for Radio

- Filing deadline for NY radio – February 1, 2022
- TV files a year later
- Stations in NJ in the same renewal cycle
- Radio stations in Pennsylvania in last window – April 1, 2022

Things to Think About

- New FCC filing system – LMS, not CDBS – and it does not always work right
- New online public file obligations this time identifying many problems – the FCC is looking!
- Obligations in renewal application to certify about many aspects of your operation
 - Certifications made under oath so, if the certification is inaccurate, FCC could think that you are lying – and lying to the FCC can cost a station a license
- Lots of little issues that can also get you into trouble
- Processing continues and issues arise even with the FCC working from home – though maybe some slack because of the pandemic, at least in some cases (noted later)
- Don't wait for the last minute to get ready!

What We'll Talk About

- Importance of getting your license renewal
- EEO
- Online Public File, Quarterly Issues Programs Lists
- FCC Consent Decrees on political and public file
- Other renewal certifications
- Planning for renewal – what you should be doing now
- The renewal process, including pre- and post-filing announcements
- A look at the renewal form

No License, No Station

- License renewal is vital to the continued operation of your Station
 - If you don't file, the FCC can take away your station's authority to operate
 - If you forget to file, or file late, the FCC is likely to assess a fine – or, in the worst case, cancel a license
 - Remember to request renewal of your translators
- The FCC will not permit you to close on a sale or purchase while the renewal is pending.
 - Delays in getting your renewal granted can delay other regulatory approvals

EEO

- Every full-power renewal application is scrutinized for EEO compliance, including noncommercial stations
- Stations (except LPFMs) file a Form 396 EEO Report with their renewals
- Recruitment rules don't apply to stations with fewer than 5 full-time employees, but you still must file the EEO Form 396 renewal form listing EEO complaints and a contact person
- Full-power stations with 5+ full-time employees must include 2 years of annual EEO Public File Reports with their EEO filing
- Be sure to widely disseminate information about all job openings, absent unique circumstances and do supplemental outreach and educational efforts even if you have no openings
- Make sure that your EEO Reports have been uploaded into your online public file – 8 should be there at renewal time

The Online Public File – Everyone is Watching (including the FCC)

- FCC is watching – reviewing station files and comparing info in the file to your answers in the renewal application. Not applicable to LPFM.
- You are certifying everything that was required to go into the file went into the file – and it was uploaded at the right time
- Ownership information – did you file your Biennial Ownership Report in both 2018 (for 2017), the one that was due by Jan 31, 2020 (for 2019), and the one for 2021 due yesterday – December 1?
- FCC applications – FCC supposed to upload automatically, but confirm applications got to the file as they don't always make it
- Contracts relating to station ownership and control – Articles and By-Laws, Stock Pledges, lending documents involving FCC assets – must be on list in the file and available in 7 days upon request, if not actually in the file

Political Files

- Lots of recent issues!!!
- FCC entered into well over 100 consent decrees with radio broadcasters that could not certify compliance with political file rules
- FCC looking for the upload of political orders in one business day – for all candidates and federal issue ads. Uploads include the schedules and prices for the spot order – don't delay while waiting for additional information like NAB form
 - State and local issue ads, no schedule and price information required in the file but, for all issue ads, need contact person, address, phone and names of officers or directors of sponsoring organization
- Also need to upload invoices or affidavits of performance information as to exact time spots ran once the schedule is complete
- For federal issue ads, also need to identify all candidates and issues mentioned in the ad

What you did and when you did it – Quarterly Issues Programs Lists

- Don't forget quarterly programs lists – they are your official record of public service programming
- 10 days after the end of each quarter – they go in your online public file (April 10, July 10, October 10, January 10)
- List most important issues in your community and the programs that you broadcast to address those issues
- **Every station** should have them (except LPFM and LPTV) – these are the only official documents of how you served the public interest
- Biggest source of fines last renewal cycle – for commercial and noncommercial stations – and TV Branch is issuing fines this cycle
- Fines up to \$15,000 per station for issues/programs list violations – two stations fined early in this renewal cycle and given short renewals and now, post-pandemic, a rash of consent decrees including for noncommercial stations

Other Certifications

- Station is on the air – no renewal for silent station
- All online public files uploaded, and uploaded on time – FCC can see the time/date stamp, so be sure you certify correctly
- Whether there were any FCC fines or findings of violations against the station
- Station has not been off the air for substantial periods
- RF radiation compliance (see next slide)
- No character issues – felonies, media antitrust, discrimination, fraud before government agency
- Alien (foreign) Ownership compliance
- TV – compliance with Children’s TV rules

PLANNING: AVOID UNPLEASANT SURPRISES – RESEARCH NOW

- Task the station engineer with completing an RF radiation analysis of your site – to assure that there are no changes, or that site complies with requirements using the FCC’s worksheets.
 - Set an early deadline so corrective action can be taken if necessary
- Send each officer, director or other person or entity holding an attributable interest in the licensee a background questionnaire to check on character issues
 - Set an early deadline for responses; push to get them back.

PLANNING: GET THE FCC DETAILS RIGHT

- Licensee Name
- Street Address
- Call Letters
- City of License
- If there are inconsistencies, get them corrected before you file!
- Key identifiers needed to file:
 - FIN: Facility ID Number
 - FRN: FCC Registration Number
 - LMS: License Management System – need your FRN and Password to begin
- LMS can be a pain!

PLANNING: MORE PREPARATION

- Inventory all licenses
 - Main station license
 - Translators – can be filed with commonly-owned main station – if not commonly owned, separate renewal
 - Boosters like auxiliary
 - Broadcast Auxiliaries—STLs, RPUs, Inter-city Microwave – automatically renewed with main station
 - Non-broadcast licenses – different schedule – be sure to check
- Are licenses current and accurate and do they cover all activities of the station?
- Have all regulatory fees been paid?

PROCESS: STEP ONE – FILE THE RENEWAL

- You used to have a pre-filing announcement requirement to alert public of your plans to file renewal – FCC recently abolished it
- Now, first step is to file the application on or before the due date
- Need to file EEO Form 396 with the Renewal (except LPFM)
- Electronic filing – must be filed electronically
- Pay Fees - \$325 for each main station, \$175 for translator – new fee filing system starting December 15
- Run post-filing announcements after renewal is submitted – see next slide
- Upload certification within 7 days after last announcement giving dates and times of the post filing announcements

New Public Notice Requirements

- No pre-filing announcements
- 6 on-air post-filing announcements over 4 weeks following “acceptance for filing” of application
 - Between 7 AM and 11 PM, Monday - Friday
 - At least once each week
 - No more than 2 in any one week, not on the same day
 - After completion, upload to the public file a certificate giving dates and times of airing of the notices
- Button on website homepage to “FCC Applications”
 - Don’t need to post notice about renewal for main station
 - Do need to post it for associated translators

Text of Public Notice

- On _____, 2021, XYZ Licensee Company, licensee of KXXX, FREQUENCY, CITY, STATE, filed an application with the Federal Communications Commission for renewal of its broadcast license. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit publicfiles.fcc.gov and search in KXXX's public file.
- Translator online notice includes link to FCC public inspection file page for renewal application

PROCESS: STEP TWO – WAIT

- The public can file comments on the renewal for three months after the deadline date for the renewal filing
- If you file late, the public gets more time to object
- Any objection will take months (maybe years) to resolve
- The FCC may have questions too – many on the public file and EEO recently – and other questions if there are any enforcement issues outstanding
- Other issues may take months to resolve
- If no issues – look for renewal about 4 months after filing
- If you don't see a grant – ask why it's held up

Things to Think About

- Do your homework
- Take care in responding to the questions – make sure that your answers are clear
- Don't make false certifications. Double jeopardy – possible penalties both for not uploading on time and false certifications.
- If you were late uploading something to your public file, the FCC will know.

License Renewal Sample



Approved by OMB (Office of Management and Budget) | OMB Control Number 3060-0110

(REFERENCE COPY - Not for submission)

Renewal of License

File Number: | Submit Date: | Call Sign: | Facility ID: | FRN: |
 State: | City: |
 Service: **FL** | Purpose: **Renewal of License** | Status: **Pending** | Status Date: | Filing Status: **Active**

General Information

Section	Question	Response
Attachments	Are attachments (other than associated schedules) being filed with this application?	No

Fees, Waivers, and Exemptions

Section	Question	Response
Waivers	Does this filing request a waiver of the Commission's rule(s)?	
	Total number of rule sections involved in this waiver request:	

License Renewal Form

Renewal Certification	Section	Question	Response
	Character Issues	Licensee certifies that neither the licensee nor any party to the application has or has had any interest in, or connection with, any broadcast application in any proceeding where character issues were left unresolved, or were resolved adversely against the applicant or any party to the application;	
		Licensee certifies that neither the licensee nor any party to the application has or has had any interest in, or connection with, any pending broadcast application in which character issues have been raised..	
	Adverse Findings	Licensee certifies that, with respect to the licensee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any laws related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.	
	FCC Violations during the Preceding License Term	Licensee certifies that, with respect to the station(s) for which renewal is requested, there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term. If "No", the licensee must submit an explanatory exhibit providing complete descriptions of all violations.	
	Alien Ownership and Control	Licensee certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.	
	Non-Discriminatory Advertising Sales Agreements (For Commercial AM and FM applicants only)	Commercial licensee certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity and that all such agreements held by the licensee contain non-discrimination clauses. Noncommercial licensees should select "not applicable."	

Full-Power License Renewal

AM/FM/LPFM Certification

Section	Question	Response
Biennial Ownership Report	Licensee certifies that the station's Biennial Ownership Report (FCC Form 323 or 323-E) has been filed with the Commission, as required by 47 C.F.R. Sections 73.3615 and 74.797.	
EEO Program	The station's Broadcast EEO Program Report (FCC Form 396), has been filed with the Commission, as required by 47 C.F.R. Section 73.2080(f)(1).	File Number:
	The station has posted its most recent Broadcast EEO Public File Report on the station's website, as required by 47 C.F.R. Section 73.2080(c)(6).	
Online Public Inspection File	Licensee certifies that the documentation required by 47 C.F.R. Section 73.3526 or 73.3527, as applicable, has been uploaded to the station's public inspection file as and when required.	
Adherence to Minimum Operating Schedule	Licensee certifies that, during the preceding license term, the station has not been silent (or operating for less than its prescribed minimum operating hours) for any period of more than 30 days.	
Silent Station	Licensee certifies that the station is currently on the air broadcasting programming intended to be received by the public.	
Discontinued Operations	Licensee certifies that during the preceding license term, the station has not been silent for any consecutive 12-month period.	
Environmental Effects	Licensee certifies that the specified facility complies with the maximum permissible radio frequency electromagnetic exposure limits for controlled and uncontrolled environments.	

License Renewal

Other BroadCast Stations	Section	Question	Response
	Other BroadCast Stations	Does this application include one or more FM translator station(s) or TV translator station(s) or LPTV station(s), in addition to the station listed at the top of this section?	

License Renewal

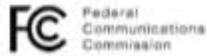
Certification	Section	Question	Response
	General Certification Statements	<p>The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by authorization or otherwise, and requests an Authorization in accordance with this application (See Section 304 of the Communications Act of 1934, as amended.).</p>	
		<p>The Applicant certifies that neither the Applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to §5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under §1.2002(c) of the rules, 47 CFR . See §1.2002(b) of the rules, 47 CFR §1.2002(b), for the definition of "party to the application" as used in this certification §1.2002 (c). The Applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.</p>	

License Renewal

Certification

Section	Question	Response
<p data-bbox="421 329 722 358">Authorized Party to Sign</p>	<p data-bbox="788 329 1470 434">FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID</p> <p data-bbox="788 448 1470 591">Upon grant of this application, the Authorization Holder may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements will result in automatic cancellation of the Authorization. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of Authorization requested in this application.</p> <p data-bbox="788 719 1470 948">WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND /OR IMPRISONMENT (U.S. Code, Title 18, §1001) AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, §312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, §503).</p>	
	<p data-bbox="788 986 1379 1051">I certify that this application includes all required and relevant attachments.</p>	
	<p data-bbox="788 1095 1445 1202">I declare, under penalty of perjury, that I am an authorized representative of the above-named applicant for the Authorization(s) specified above.</p>	

EEO – Full Power Only



Approved by OMB (Office of Management and Budget) | OMB Control Number 3060-0113

(DRAFT COPY - Not for submission)

Broadcast Equal Employment Opportunity Program Report

FRN: | File Number: | Submit Date: | Call Sign: | Facility ID: | City:
 State:
 Service: **Full Power FM** | Purpose: **EEO Report** | Status: | Status Date: | Filing Status: **Active**

General Information

Section	Question	Response
Application Description	Description of the application (255 characters max.) is visible only to you and is not part of the submitted application. It will be displayed in your Applications workspace.	
Attachments	Are attachments (other than associated schedules) being filed with this application?	

Licensee Information

Licensee Name, Type and Contact Information

Applicant	Address	Phone	Email	Applicant Type

Contact Representatives

Contact Name	Address	Phone	Email	Contact Type

EEO – Full Power Only

Common Stations	Facility Identifier Call Sign City State Time Brokerage Agreement				
Program Report Questions	Section		Question	Response	
	Discrimination Complaints		Have any pending or resolved complaints been filed during this license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the station(s)?		
<hr/>					
Full-time Employees		Does your station employment unit employ fewer than five full-time employees? Consider as "full-time" employees all those permanently working 30 or more hours a week?			
Certification	Question				Response
	The undersigned certifies that he or she is (a) the party filing the report, or an officer, director, member, partner, trustee, authorized employee, or other individual or duly elected or appointed official who is authorized to sign on behalf of the party filing the report; or (b) an attorney qualified to practice before the Commission under 47 C.F.R. Section 1.23(a), who is authorized to represent the party filing the report, and who further certifies that he or she has read the document; that to the best of his or her knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay				
	Certified Date				
	Certified Title				
	Authorized Party Name				
Attachments	No Attachments.				

Resources

<http://www.broadcastlawblog.com>

FCC website – license renewal guides for radio:

<https://www.fcc.gov/media/radio/broadcast-radio-license-renewal>

Questions?

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